

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Clarence Lowery, #229848,)	
)	C/A No.: 4:06-1794-MBS
Plaintiff,)	
)	
vs.)	
)	
Warden Bernard McKie; Lt. W. Reed,)	
Officer W. Brown, and Officer C.)	ORDER
Strickland,)	
)	
Defendants.)	
)	

Plaintiff Clarence Lowery is an inmate in custody of the South Carolina Department of Corrections. Plaintiff, appearing pro se, brings this action under 42 U.S.C. § 1983 against personnel at the Evans Correctional Institution in Bennettsville, South Carolina. Plaintiff alleges he did not receive enough to eat while he was locked down for approximately twelve days.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and 1915A and the Prison Litigation Reform Act of 1996. On September 11, 2006, the Magistrate Judge filed a Report and Recommendation in which he found that Plaintiff had not exhausted his administrative remedies as required by 42 U.S.C. § 1997e(a). Accordingly, the Magistrate Judge recommended that the action be dismissed without prejudice and without issuance and service of process. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The case is dismissed without prejudice and without issuance and service of process to allow Plaintiff to exhaust his administrative remedies.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

October 6, 2006

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.